IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

WP(C).No. 27844 of 2007(M)

PETITIONER:

C.GOPALAKRISHNA MENON,
S/O.K.K.MADHAVA MENON, T.C.NO.28-481(1),
KUZHIVILAKATH HOUSE, KAITHAMUKKU PASSPORT OFFICE
CHAMBAKKADA MUKKU ROAD, PETTAH,
THIRUVANANTHAPURAM - 24.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE HOME SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SUB INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION,
THIRUVANANTHAPURAM.

3. MINI G.MENON, W/O.RAMARAJ, CRA 14,
NALANDA GARDENS LANE, WEST PATTOM,
THIRUVANANTHAPURAM - 4.

4. RAMARAJ, S/O.RAMACHANDRAN NAIR, CRA 14,
NALANDA GARDENS LANE, WEST PATTOM,
THIRUVANANTHAPURAM - 4.

BY GOVT. PLEADER SRI. SALIM P.A

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: True copy of the judgment in O.S. No. 962 of 2005 on the file of the First Additional Munsiff's Court, Thiruvananthapuram dated 4-3-2006.

Ext.P2: True copy of the complaint dated 10.9.2007 submitted before the 2nd respondent.

//True copy//

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K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 27844 OF 2007-M

Dated 19th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner owns 13 cents of land in Sy.No.1094-2 of Pattom village, Thiruvananthapuram. When respondents 3 and 4 tried to trespass into the said property, he filed O.S.No.962/2005 before the Munsiff's Court, Thiruvananthapuram. The said court passed Ext.P1 judgment, restraining the said respondents, who were the defendants in the suit, from trespassing into the plaint schedule property, demolishing the compound wall or committing acts of waste there. The petitioner submits, notwithstanding the said decree, respondents 3 and 4 are trying to trespass into the property. So, he filed Ext.P2 representation before the police and thereafter, this writ petition is filed, seeking the following reliefs:

> "(a) direct the 2nd respondent to ensure that respondents 3 & 4 or anybody else under them do not trespass into the petitioner's property in Sy.No.1094-2 of Pattom Village in Thiruvananthapuram in violation of Ext.P1 judgment.
>
> (b) issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to afford

> sufficient and meaningful police protection to the petitioner and his family members to enjoy there immovable property in Sy.No.1094-2 of Pattom village in Thiruvananthapuram without being obstructed in any fashion by respondents 3 & 4 or anybody else under them."

2. Going by the above reliefs sought, we feel that the petitioner has to move the civil court for executing the decree obtained by him. If anybody violates a decree, it is not for the police to look into the said allegation and take remedial action, if they find that the allegation of violation of the injunction decree is correct. No statute has been brought to our notice, empowering the police to do that. In this jurisdiction we are concerned only with the failure of duty from the part of the police. Accordingly, the writ petition is dismissed without prejudice to the contentions of the petitioner and his right to move the civil court for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/